

Magistrate Judge Brian A. Tsuchida

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

V.

MICHAEL JOHN SCOTT,

Defendant.

CASE NO. MJ20-041

COMPLAINT for VIOLATION

Title 21, U.S.C., Sections 841(a)(1) and (b)(1)(C), and Title 18, U.S.C., Sections 922(g)(1), 924(a)(2), and 2

BEFORE BRIAN A. TSUCHIDA, United States Magistrate Judge, United States Courthouse, Seattle, Washington.

The undersigned complainant being duly sworn states:

COUNT 1

Possession of Controlled Substances With Intent to Distribute

On or about January 30, 2020, at Whatcom County, within the Western District of Washington, MICHAEL JOHN SCOTT did knowingly possess, with the intent to distribute, and aid and abet the possession of with the intent to distribute, substances

1 controlled under Title 21, United States Code, Section 812, Schedules I and II, to wit,
2 heroin and N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide (Fentanyl).

3 All in violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C),
4 and Title 18, United States Code, Section 2.

5 **COUNT 2**
6 **Felon in Possession of a Firearm**

7 On or about January 30, 2020, at Snohomish County, within the Western District
8 of Washington, MICHAEL JOHN SCOTT, knowing that he had been convicted of the
9 following crime punishable by a term of imprisonment exceeding one year, to wit,
10 *Conspiracy to Distribute Controlled Substances*, on January 24, 2020, in the United
11 States District Court for the Western District of Washington, Case No. CR18-5579RBL,
12 did knowingly possess, in and affecting interstate and foreign commerce, a firearm, to
13 wit: a Colt Delta Elite 10mm semi-automatic pistol, bearing serial number DS42017,
14 which had been shipped and transported in interstate and foreign commerce.

15 All in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

16
17 And the complainant states that this Complaint is based on the following
18 information:

19 I, Ryan C. Smith, being first duly sworn on oath, depose and say:

20 1. I am an “investigative or law enforcement officer of the United States”
21 within the meaning of Title 18, United States Code, Section 2510(7). Specifically, I am a
22 Special Agent with the Drug Enforcement Administration (“DEA”), assigned to the
23 Bellingham, Washington Resident Office. In that capacity, I investigate violations of the
24 Controlled Substances Act (Title 21, United States Code, Section 801, *et seq.*). I have
25 been employed as a Special Agent with the DEA since March 2017. Prior to becoming a
26 Special Agent, I was a detective in the Special Victims Unit, a police motorcycle officer,
27 and a police patrol officer with the Hoover Police Department in Hoover, Alabama. In
28 my experience as a law enforcement officer, I have participated in numerous narcotics

1 investigations, during the course of which I have participated in physical surveillance and
2 executions of search warrants.

3 2. I have completed the DEA Basic Agent Training Course as well as other
4 training courses related to gangs and narcotics trafficking. I have participated in
5 narcotics investigations at both the local and federal level, and I have participated in the
6 execution of federal search warrants. As a result, I have become familiar with methods
7 of operation of drug traffickers and organizations. As a Special Agent with the DEA, I
8 have the responsibility of working with other federal and state law enforcement officers
9 in investigations of violations of federal and state controlled substance laws, including
10 the investigation of violations related to cocaine, methylenedioxymethamphetamine
11 (MDMA), methamphetamine, heroin, fentanyl, marijuana and other dangerous drugs.

12 3. I have participated in the debriefing of defendants, witnesses, and
13 informants, during which time I have discussed with them their methods of drug
14 smuggling, distribution, packaging, trafficking, avoiding law enforcement, and
15 laundering proceeds, among other concerns related to drug trafficking. I have discussed
16 and learned from other law enforcement investigators in regards to these matters as well.

17 4. Based on my training, experience, and conversations with other
18 experienced narcotics investigators, I have gained insight into the techniques and
19 methods used by drug traffickers to distribute controlled substances, their use of cellular
20 phones and other electronic communication telephones to facilitate their trafficking
21 activity, and the methods used to conceal and launder the proceeds of said activity.
22 The facts in this affidavit come from my personal observations, my training and
23 experience, and information obtained from other agents and witnesses. My specialized
24 training and experience in drug investigations form a basis for my opinions and
25 conclusions, which I drew from the facts set forth herein.

26 5. I make this affidavit with the belief that there is probable cause to believe
27 MICHAEL JOHN SCOTT has committed the crimes of *Possession of Controlled*
28 *Substances With Intent to Distribute*, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C)

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1 and 18 U.S.C. § 2, and *Felon in Possession of a Firearm*, in violation of 18 U.S.C.
2 §§ 922(g)(1) and 924(a)(2). This affidavit does not set forth every fact known to me
3 concerning MICHAEL JOHN SCOTT, but only those I believe are necessary for a fair
4 determination of probable cause.

5 6. I make this Affidavit based upon personal knowledge derived from my
6 participation in this investigation and upon information I believe to be reliable from the
7 following sources:

8 a. My training and experience investigating drug trafficking and related
9 criminal activity, as described above;

10 b. Oral and written reports and documents about this and other
11 investigations that I have received from agents of the DEA and the Whatcom County
12 Sheriff's Office (WCSO), and other federal, state and local law enforcement agencies;

13 c. Physical surveillance conducted by the aforementioned agencies,
14 and other law enforcement agencies, that has been reported to me directly or indirectly;

15 d. Telephone toll records, pen register and trap and trace information,
16 and subscriber information;

17 e. Washington State Department of Licensing records;

18 f. Commercial Databases;

19 g. Public records;

20 h. Publicly viewable information on social media websites (*i.e.*,
21 Facebook); and

22 i. Confidential sources/informants.

23 7. In the following paragraphs, I describe communications between various
24 individuals. Except where specifically indicated with quotation marks, the descriptions
25 are summaries of the conversations and are not meant to reflect the specific words or
26 language used.

1 8. On December 6, 2018, MICHAEL JOHN SCOTT was arrested and charged
 2 as one of dozens of members of a drug trafficking conspiracy as a result of a DEA
 3 Tacoma investigation into a drug trafficking organization (DTO) referred to as the
 4 CASTRO DTO. As part of the investigation into the CASTRO DTO, on December 3,
 5 2018, United States Magistrate Judge Theresa L. Fricke authorized a federal search
 6 warrant for SCOTT's residence at 8024 150th Street Southeast, Snohomish, Washington.
 7 During the December 2018 search of SCOTT's residence, investigators found two gallon-
 8 sized, one quart-sized, and two sandwich-sized empty Ziploc bags in the master bathroom
 9 garbage can, and three fentanyl-laced imitation oxycodone pills on the bathroom floor.
 10 Investigators also found a clear plastic bag containing a few more fentanyl-laced
 11 imitation oxycodone pills in the master bedroom closet. The seized pills were consistent
 12 in appearance with the fentanyl-laced pills distributed by the CASTRO DTO, *i.e.*, small,
 13 blue, and imprinted with "M" and "30." Investigators found multiple tools of the trade
 14 used by drug traffickers in the residence, including a blue, Capsuline-brand pill counter
 15 (in a dresser drawer in the master bedroom) and two digital scales (in the master bedroom
 16 closet). Investigators also seized 100 gross grams of suspected cocaine, 40 gross grams
 17 of suspected MDMA, 9.35 net grams of 100% pure methamphetamine, 5,680 gross grams
 18 of processed marijuana, and a total of \$44,362 in cash, some of which was hidden inside
 19 the walls of the residence.

20 9. After being advised of his *Miranda* rights, SCOTT admitted to agents that
 21 he obtained fentanyl-laced imitation oxycodone pills and cocaine from the CASTRO
 22 DTO for redistribution to others. On December 12, 2018, SCOTT was released to the
 23 supervision of Pretrial Services.

24 10. On June 18, 2019, SCOTT pleaded guilty to Conspiracy to Distribute
 25 Controlled Substances, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B), and 846. In
 26 his plea agreement, SCOTT admitted, among other things, that he was a high-volume
 27 redistributor of cocaine and fentanyl-laced imitation oxycodone pills for the DTO; that
 28 the \$44,362 in cash seized from his residence constituted cash drug proceeds; and that the

1 loose pills and empty Ziploc bags found in the master bathroom on December 6, 2018,
2 were there because he was flushing larger quantities of the pills down the toilet before
3 law enforcement officers could seize them.

4 11. On January 24, 2020, SCOTT appeared before the Honorable Ronald B.
5 Leighton, United States District Judge, for sentencing. The Court sentenced SCOTT to
6 78 months in custody, to be followed by four years of supervised release. SCOTT was
7 permitted to remain out of custody, subject to the supervision of Pretrial Services.

8 12. Two days prior to SCOTT's sentencing (i.e., January 22, 2020), DEA
9 Bellingham received a tip from someone (who would later become a Whatcom County
10 CS) who told investigators s/he could obtain pills made with fentanyl. The CS then met
11 with investigators at the DEA Bellingham office and said that s/he could purchase pills
12 from an individual named Michael Scott, who lived in Snohomish County. The CS told
13 investigators that s/he had active warrants and wanted to work for judicial consideration
14 for those warrants. An NCIC check showed the CS has an active felony warrant for retail
15 theft and an active warrant for false reporting to law enforcement, both in Skagit County,
16 Washington. NCIC also showed that s/he has two felony theft charges, multiple gross
17 misdemeanor convictions for theft and criminal trespass, and multiple misdemeanor
18 convictions for driving while license suspended and bail jumping.

19 13. The CS told investigators that s/he knew Michael Scott through Scott's
20 family. The CS identified MICHAEL JOHN SCOTT from a Washington DOL photo of
21 him. The CS said that SCOTT called him/her earlier in January 2020 to see if the CS
22 wanted any counterfeit M30's or could sell counterfeit M30's.¹ The CS stated SCOTT
23 told him/her that SCOTT was looking to get rid of 100, 200, or up to 1,000 pills; the CS
24 stated s/he was told the pills were made with fentanyl. The CS told investigators that s/he
25 told SCOTT that s/he did not want any pills nor did s/he know anybody that wanted the
26

27 28 ¹ The CS admitted to investigators that s/he previously purchased a single Vicodin from SCOTT.

1 pills at that time. The CS stated that a few days after the phone conversation, s/he ran
2 into SCOTT at a retail store in Bellingham, Washington. The CS stated that at the retail
3 store SCOTT showed him/her a backpack that SCOTT had in his car and that backpack
4 contained multiple baggies of pills; the CS said the pills were both light and darker blue.
5 The CS stated s/he thought each baggie had 100 pills and that s/he thought there were
6 more than 1,000 pills in the backpack. The CS said that SCOTT relayed that he heard the
7 M30's in Bellingham were being sold for \$40 a pill and that SCOTT wanted to sell his
8 M30's for \$20 a pill.

9 14. Investigators asked the CS if s/he knew where SCOTT lived. The CS said
10 yes, and that s/he had been to SCOTT's residence as recently as December of 2019.
11 Investigators asked the CS if s/he could identify SCOTT's residence using Google Maps.
12 Using Google Maps, the CS identified SCOTT's residence as 8024 150th Street
13 Southeast, Snohomish, Washington. The CS provided SCOTT's phone number as 425-
14 308-8815. The CS had SCOTT's phone number stored in his/her phone under the contact
15 name "mickey." Investigators discussed with the CS the possibility of having the CS
16 reach out to SCOTT to arrange for a controlled purchase of pills that would occur later
17 that same day (January 22, 2020). The CS stated that s/he had a prior immediate
18 obligation, but that s/he could return later that evening to be signed up as a CS with
19 Whatcom County and arrange for the controlled purchase.

20 15. After leaving the initial meeting with investigators, as described above,
21 investigators contacted the CS to see when s/he would return. The CS informed
22 investigators that s/he would return shortly. The CS also told investigators that s/he had a
23 text message conversation with SCOTT to arrange for the purchase of pills. Investigators
24 then told the CS that since s/he had not been signed up as a CS yet, s/he needed to stop
25 trying to make arrangements to purchase pills until investigators were present. Shortly
26 thereafter, the CS returned to meet with investigators. During the second meeting, which
27 also occurred on January 22, 2020, the CS was signed up as a CS with Whatcom County.
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1 16. During this second meeting on January 22, 2020, the CS showed
 2 investigators a text message conversation² between the CS and the phone contact listed as
 3 "mickey," whom, as previously noted, the CS identified as SCOTT. In those messages,
 4 when the CS asked SCOTT if they could meet up, SCOTT replied affirmatively and
 5 asked "how many" the CS needed. The CS responded, "500."

6 17. At approximately 8:07 p.m., after Whatcom County investigators signed up
 7 the CS, investigators directed the CS to send another message to SCOTT requesting the
 8 pills. The CS sent a text message and asked, "hey someone wants me to grab \$500 worth
 9 of those can i grab that." Investigators had directed the CS to change the request from
 10 500 pills to make it seem as if the CS had \$500 to purchase pills. This was done to
 11 ensure investigators could cover the cost of the pills in the event the CS had to conduct a
 12 controlled purchase that evening. At approximately 8:16 p.m., after having not received
 13 a response from SCOTT, investigators directed the CS to call SCOTT to arrange for the
 14 controlled purchase of the fentanyl-laced imitation oxycodone pills (the M30's).

15 18. The CS called SCOTT, and investigators listened to the conversation
 16 between a male, whom the CS later identified as SCOTT, and the CS. This call was not
 17 recorded. Upon answering the phone, SCOTT told the CS that s/he was "all over the
 18 place," and indicated that it was too late for SCOTT to meet the CS that evening. The CS
 19 asked if SCOTT was available to meet tomorrow and SCOTT said that he could meet up;
 20 no times were discussed. The CS also asked if s/he could drive to SCOTT to pick up the
 21 pills. In reply, SCOTT said that his wife was on her way to SCOTT's house and that he
 22 would have to call his wife to see where she was. SCOTT then hung up the phone. After
 23 waiting for SCOTT to call back, investigators then directed the CS to send a text message
 24 to SCOTT. The CS asked SCOTT, "hey whass up can I come through" and "?????? Can

27
 28 ² Investigators have reviewed the CS's text messages discussed herein.

1 you let me know its getting late." At approximately 8:30 p.m., SCOTT replied and said,
 2 "No", "Tomorrow", "I'm sorry", and "Intold you at 430 when we were talking its 830."

3 19. Later that evening, at the direction of investigators, the CS sent text
 4 messages back to SCOTT and said, "k what time ru thinking so I can make sure I have
 5 someone to watch my daughter", and "???? And he wants some dark [a coded reference
 6 to heroin] did you have or just those blues if not its fine just let me know so I can let him
 7 know whass up." SCOTT did not respond that evening.

8 20. On January 23, 2020, the CS received a phone call from phone number
 9 425-535-0965. After verifying with investigators that 425-535-0965 did not belong to
 10 one of them, the CS told investigators that s/he thought it was SCOTT's new phone
 11 number. The CS also told investigators that s/he received a text message from the
 12 number that said, "new line." In reply, the CS said, "italion stallion," and received a
 13 response back that said, "yup." The CS told investigators that SCOTT refers to himself
 14 as the "Italian stallion."

15 21. The CS later sent investigators a screen shot picture of two text messages
 16 s/he received from SCOTT (425-535-0965) that said, "Hello" and "What's up." The CS
 17 and SCOTT went on to exchange a series of text messages in which SCOTT discussed
 18 the fact he just had received a 78-month sentence. SCOTT indicated that he would be in
 19 the Bellingham, Washington, area the following day (January 25, 2020), and could meet
 20 up with the CS then.

21 22. On January 25, 2020, the CS and SCOTT exchanged a series of text
 22 messages. After speaking with the CS, investigators decided to again attempt to set up
 23 the purchase of the M30 pills from SCOTT, this time on January 29, 2020. In the interim
 24 (i.e., between January 25, and January 29, 2020), the CS and SCOTT continued to engage
 25 in text messages. Notably, investigators had directed the CS to not discuss purchasing
 26 pills with SCOTT except at their direction. From review of the text messages, the CS
 27 appears to have followed investigators' direction. There were several text messages
 28

1 received from SCOTT that seemed to indicate that SCOTT could not get in touch with
2 the CS during this time.

3 23. On January 29, 2020, investigators met with the CS to set up the controlled
4 purchase with SCOTT. After reviewing the text message conversations described above,
5 investigators directed the CS to send SCOTT a message to see if SCOTT was available to
6 meet. The CS then had the following text message conversation with SCOTT (425-535-
7 0965):

8 CS: hey so i dont have a car can we meet up
9 SCOTT: What the fuck is up with you.
10 SCOTT: When
11 SCOTT: You drop off
12 SCOTT: You reaper are you smoked out or what
13 SCOTT: This is fucking cluck behavior

14 24. After the CS received the messages from SCOTT, SCOTT attempted to call
15 the CS. Investigators directed the CS to not answer the call at that time. A few minutes
16 later, at approximately 4:24 p.m., investigators directed the CS to call SCOTT to attempt
17 to set up a meeting to purchase the fentanyl-laced imitation M30's. In this call, which
18 was recorded, SCOTT expressed his frustration with the CS ("This is like fucking cluck
19 behavior. I don't understand. You say you are on your way down, you don't show up.
20 You know what I'm saying? Like what the fuck you want me...you know? Then you
21 been sitting on my motherfucking money for a couple...for quite some time you know? I
22 don't deal business this way."). At the end of the call, SCOTT and the CS agreed that
23 perhaps they could meet up later that day (January 29, 2020) for the transaction.

24 25. On January 29, 2020, at approximately 5:52 p.m., the CS called SCOTT
25 and arranged to purchase the pills on Thursday, January 30, 2020. This phone call also
26 was recorded. In that call, SCOTT agreed he could meet the CS on January 30, 2020,
27 "mid-morning, early afternoon." The CS told SCOTT s/he no longer had the money for
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1 500 pills, but had the money for 300 pills. SCOTT offered the CS a price of \$15/pill,
 2 which the CS agreed "would work."

3 26. On January 30, 2020, the CS confirmed with SCOTT that they would be
 4 meeting that day. Investigators established surveillance at SCOTT's residence (8024
 5 150th Street Southeast, Snohomish, Washington) and saw him leave at approximately
 6 11:30 a.m. in his black BMW sedan (bearing Washington plate BMV0641).
 7 Investigators followed SCOTT from his residence to a restaurant in Everett, Washington,
 8 where he appeared to eat lunch, and then northbound on Interstate 5. At approximately
 9 1:10 p.m., SCOTT called the CS and said he was on his way. They agreed SCOTT
 10 would call again when he had passed Burlington, Washington, and he and the CS would
 11 figure out where to meet.

12 27. At approximately 2:00 p.m., when SCOTT got into the Bellingham,
 13 Washington area, a Whatcom County Sheriff's office deputy conducted a traffic stop on
 14 the black BMW sedan. SCOTT was the driver and sole occupant. During the traffic
 15 stop, the deputy had SCOTT get out of the vehicle. A Whatcom County Sheriff's Office
 16 narcotics canine was then deployed on the BMW and alerted to the presence of the odor
 17 of narcotics emanating around the trunk of the vehicle. The Whatcom County deputy
 18 then asked SCOTT if he could search the car. SCOTT declined to give consent to search.

19 28. Investigators directed the deputy to search SCOTT's black BMW sedan.
 20 During the search, investigators found approximately 9 baggies containing small, light
 21 blue pills that investigators believe to be, based on training, experience, and the nature of
 22 the investigation, imitation M30 pills laced with fentanyl. Investigators estimated each
 23 baggie to contain approximately 100 pills and noted that they were packaged in a manner
 24 consistent with redistribution. Investigators also found approximately a fist-size of a
 25 dark-colored hard substance that they believe to be, based on training and experience,
 26 heroin. The heroin weighs approximately 134 gross grams and later field-tested positive
 27 for the presence of heroin. After the discovery of the drugs, SCOTT was placed under
 28

1 arrest. Investigators also found three bundles of cash, with each bundle appearing to
2 contain \$100 bills, in the vehicle.

3 29. I then obtained federal search warrants for SCOTT's residence (8024 150th
4 Street Southeast, Snohomish, Washington) and the black BMW (to conduct a more
5 thorough search), from the Honorable Brian A. Tsuchida, United States Magistrate Judge.

6 30. During the search of SCOTT's residence (8024 150th Street Southeast,
7 Snohomish, Washington), investigators found 54 gross grams of methamphetamine
8 (field-tested with positive results), six blue "M30" pills, consistent in appearance with
9 what investigators believe to be fentanyl-laced imitation oxycodone pills, and multiple
10 bundles of cash consisting of \$20 bills.

11 31. In SCOTT's nightstand drawer, investigators found a Colt Delta Elite
12 10mm semi-automatic pistol, bearing serial number DS42017. The magazine appeared to
13 be fully loaded with eight rounds, and was seated in the pistol; no round was chambered.
14 A search through law enforcement databases showed the Colt Delta Elite 10mm semi-
15 automatic pistol, bearing serial number DS42017 had been reported to law enforcement
16 as stolen (in Seattle/King County) on or about November 6, 2019.

17 32. I have determined that Colt firearms are not manufactured in the State of
18 Washington, and that therefore the Colt Delta Elite 10mm semi-automatic pistol, bearing
19 serial number DS42017, found in SCOTT's nightstand had to have travelled in interstate
20 or foreign commerce prior to his possession of it on January 30, 2020.

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Based on the above facts, I respectfully submit that there is probable cause to believe that MICHAEL JOHN SCOTT did knowingly and intentionally commit the crimes of *Possession of Controlled Substances With Intent to Distribute*, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C) and 18 U.S.C. § 2, and *Felon in Possession of a Firearm*, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

K. C. J.

RYAN C. SMITH, Complainant
Special Agent, Drug Enforcement
Administration

Based on the Complaint and Affidavit sworn to before me, and subscribed in my presence, the Court hereby finds that there is probable cause to believe the Defendant committed the offenses set forth in the Complaint.

Dated this 31 day of January, 2020.

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BRIAN A. TSUCHIDA
United States Magistrate Judge

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